

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN McCOLLUM, and SANDRA §  
 McCOLLUM, individually, and STEPHANIE §  
 KINGREY, individually and as independent §  
 administrator of the Estate of LARRY GENE §  
 McCOLLUM, §

PLAINTIFFS §

V.

BRAD LIVINGSTON, JEFF PRINGLE, §  
 RICHARD CLARK, KAREN TATE, §  
 SANDREA SANDERS, ROBERT EASON, the §  
 UNIVERSITY OF TEXAS MEDICAL §  
 BRANCH and the TEXAS DEPARTMENT OF §  
 CRIMINAL JUSTICE. §

DEFENDANTS §

CIVIL ACTION NO.  
3:12-cv-02037  
JURY DEMAND

**PLAINTIFFS' RESPONSE TO DEFENDANT TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE'S MOTION FOR IN CAMERA REVIEW**

Plaintiffs requested documents routinely reviewed by the Texas Department of Criminal Justice and University of Texas Medical Branch following a prisoner's death. Plaintiffs requested the documents, Defendants refused to produce them, and Plaintiffs filed a motion to compel which has been fully briefed and is awaiting a decision. *See* Doc. 144.

Defendant TDCJ now asks the Court to review the disputed documents *in camera*. Plaintiffs do not object to the Court reviewing the documents before they are produced, but Plaintiffs contend the documents are not privileged in federal court and thus *in camera* review is unnecessary.

TDCJ and UTMB rely on a privilege that only exists under *state* law. Under

Texas law, peer review documents are subject to subpoena only after an *in camera* review determines the documents are relevant in certain types of lawsuits, including § 1983 civil rights cases. *See* TEX. OCC. CODE § 160.007(b). Here, neither defendant claims the documents are irrelevant, only that they are privileged. As Plaintiffs' motion to compel explains, there is no federal privilege that protects these documents from disclosure. *See* Doc. 144, p. 5-6. Thus, because even under the Texas-law procedure *in camera* review only determines relevancy, *in camera* review is unnecessary and the documents should be produced.

Therefore, Plaintiffs respectfully request the documents be produced as soon as possible.

Dated: April 16, 2014.

Respectfully submitted,

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By /s/ Jeff Edwards  
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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

By my signature above, I certify that a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case Files System of the Northern District of Texas.

By /s/ Jeff Edwards  
JEFF EDWARDS